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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,153	05/31/2001	Klaus David Gradischnig	P01,0183	9116
26371	7590	10/27/2004	EXAMINER	
FOLEY & LARDNER 777 EAST WISCONSIN AVENUE SUITE 3800 MILWAUKEE, WI 53202-5308			LIN, KENNY S	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 10/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/857,153	Applicant(s) GRADISCHNIG ET AL.	
	Examiner Kenny Lin	Art Unit 2154	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 5/28/02.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/31/01</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-4 are presented for examination.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Garrabrant et al (hereinafter Garrabrant), US 5,610,595.

4. Garrabrant was cited by the applicant in IDS dated 5/31/2001.

5. As per claim 1, Garrabrant et al taught the invention as claimed including a method of secure data transmission which is executed on a layer basis using a transmission method having possible message overhaul, comprising the steps of:

- a. Specially marking a message which is already being transmitted for at least a second time by said transmitter (col.6, lines 58-64); and
- b. Ignoring said message which is marked as having been transmitted for at least a second time by a receiver if it recognizes said message as having already been

received or if it interprets said message as a new message (col.8, lines 62-67, col.9, lines 1-8, 27-31).

6. As per claim 2, Garrabrant et al taught the invention as claimed including a method of secure data transmission wherein a transmitter protocol operates on a layer basis using a transmitter protocol having possible message overhaul, comprising the steps of:

- a. specially marking, by said transmitter protocol, a message which is already being transmitted for at least a second time (col.6, lines 58-64, col.9, lines 20-35).

7. As per claim 3, Garrabrant et al taught the invention as claimed including a method of secure data transmission wherein a receiver protocol operates on a layer basis using a receiver protocol having possible message overhaul, comprising the steps of:

- a. Ignoring, by said receiver protocol, a message which is marked as having been transmitted at least for a second time if it recognizes the message as having already been received or if it interprets said message as a new message (col.8, lines 62-67, col.9, lines 1-8, 27-31).

8. As per claim 4, Garrabrant et al taught the invention as claimed including a method of secure data transmission wherein a receiver protocol operates on a layer basis using a receiver protocol having possible message overhaul, comprising the steps of:

- a. Ignoring, by said receiver protocol, a message if it recognizes said message as having already been received or if, although it interprets said message as a new

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message, said message is situated outside of a prescribed window (col.8, lines 62-67, col.9, lines 1-8, 21-31).

*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kari, US 6,563,825.

Murata, US 6,526,049.

10. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenny Lin whose telephone number is (703) 305-0438 and will be (571) 272-3968 after October 28, 2004. The examiner can normally be reached on 8 AM to 5 PM Tue.-Fri. and every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksl

October 19, 2004

Wen-Jan L.  
10/22/04